

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

AARIN NYGAARD & TERRANCE STANLEY,

Plaintiffs,

vs.

TRICIA TAYLOR, TED TAYLOR, JR., JESSICA
DUCHENEAUX, ED DUCHENEAUX,
CHEYENNE RIVER SIOUX TRIBAL COURT,
BRENDA CLAYMORE, IN HER OFFICIAL
CAPACITY AS CHIEF JUDGE; CHEYENNE
RIVER SIOUX TRIBAL COURT OF APPEALS;
FRANK POMMERSHEIM, IN HIS OFFICIAL
CAPACITY AS CHIEF JUSTICE; THE SOUTH
DAKOTA DEPARTMENT OF SOCIAL
SERVICES, TODD WALDO, IN HIS OFFICIAL
CAPACITY AS SOCIAL WORKER; AND JENNY
FARLEE, IN HER OFFICAL CAPACITY AS
SOCIAL WORKER;

Defendants.

3:19-CV-03016-RAL

ORDER DIRECTING SERVICE

Petitioners have filed this action for a writ of habeas corpus under 25 U.S.C. § 1303. Petitioners do not appear to be “prisoners” as that term is defined in 28 U.S.C. § 1915A, so their petition is not subject to screening under that statute. See Olivas v. Nevada ex rel. Dep’t of Corrs., 856 F.3d 1281, 1282 (9th Cir. 2017) (per curiam) (holding that screening under 1915A applies only to claims brought by individuals incarcerated at the time they file their complaints); Kane v. Lancaster Cty. Dep’t of Corrs., 960 F. Supp. 219, 221 (D. Neb. 1997) (“Since Kane was not a prisoner when he sued, this court is not authorized to engage in the screening contemplated by 28 U.S.C. 1915A(a) & (b).”). The record does not contain proof of service on the Respondents and no summons have been issued. Through staff, this Court confirmed that the Defendants have not

been served and learned that the attorneys who brought this case wish to add a second plaintiff and file an amended Petition. Therefore, it is hereby

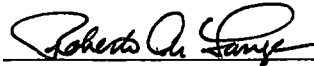
ORDERED that leave is granted for filing of an amended petition. It is further

ORDERED that the Clerk of Court and Petitioners' attorneys are to arrange for issuance of summons and that the Petitioners' attorneys arrange service on the Defendants of the amended petition and a copy of this Order. It is further

ORDERED that, with no screening required of the amended petition, Respondents shall have the usual 21 days after service under Rule 12(a) of the Federal Rules of Civil Procedure, unless the time is extended by agreement of the parties or order of this Court, to file a response to the amended petition.

DATED this 15th day of May, 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Roberto A. Lange", is written over a horizontal line.

ROBERTO A. LANGE
CHIEF JUDGE